HON'BLE SRI JUSTICE J. CHELAMESWAR
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT APPEAL No.1329 of 2006

DATE: 6.3.2007

Between:
The Chief General Manager, Telecom,
Bharat Sanchar Nigam Limited, A.P. Circle, Hyderabad and others.

…Appellants

And

The Government of Andhra Pradesh
rep. by its Principal Secretary, Home Department,
Secretariat, Hyderabad and others.

…
Respondents

HON'BLE SRI JUSTICE J. CHELAMESWAR
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT APPEAL No.1329 of 2006

JUDGMENT: (per Sri P. Swaroop Reddy,J)

This writ appeal is filed against the order dated 28.9.2006 of the learned single Judge, in writ petition No.18313 of 2005 filed by the respondent-writ petitioner seeking compassionate appointment.

2. The respondent is the son of a deceased employee. He filed W.P.No.18313 of 2005 before this Court seeking compassionate appointment. Earlier, the respondent filed W.P.No.20217 of 2004, which was allowed by this Court and the matter was remitted to the appellants for reconsideration of the case of the respondent. Pursuant to the said order, the 1st appellant issued proceedings in Letter No.TA/STA®/13-038/2001/25, dated 11.3.2005, impugned in the writ petition, rejecting the case of the respondent. The reasons assigned by the 1st appellant for rejecting the case of the respondent are:

> "The ex-official, a Senior Telephone Supervisor expired on 9.11.2000 at the age of 52 years. He has rendered more than 33 years of service. His wife, two major sons and two daughters survive him. The wife of the deceased is getting family pension @ Rs. 5,945/-(CDA pay scales) per month and the same is subject to increase for every rise in DR rates and received terminal benefits to the extent of Rs. 4,98,286/-. All the children of the deceased are grown up and educated. The family pension received by the wife is quite sufficient to lead her life. Keeping in view the overall aspects of the case into consideration, the Committee is of the opinion that the family is not living in indigent condition and hence, rejected the request in accordance with DoPT OM No. 14014/6/94-Estt(d), dt. 09.10.1998, the scheme for the purpose."

3. Sri D. Prakash Reddy, learned Senior counsel appearing on behalf of the appellants contends that taking into consideration the overall

circumstances, the case of the respondent was not considered for compassionate appointment. The circumstances specifically contended are that the respondent was aged about 30 years at the relevant time and that all the family members of the respondent have become majors and self reliant. He, therefore, urged that the writ appeal be allowed and the impugned order be set aside.

4. The learned single Judge found that the reasons given by the first appellant for rejecting the claim of the respondent are not tenable and has relied on a decision of the Apex Court in **Govind Prakash Varma vs. LIC OF INDIA**[1] wherein it is held that payment of family pension and certain amounts towards terminal benefits cannot come in the way of compassionate appointment. The learned single Judge further held that several dependants of the other deceased employees, who were in receipt of financial benefits, were also extended the benefit of compassionate appointment. This position is not disputed by the present appellants, though it is contended that circumstances of each case are different.

5. Sri Prakash Reddy, learned Senior Counsel appearing for the appellants further contends that taking into consideration the over all circumstances of the respondent, his case was not considered for compassionate appointment, that the decision of the Apex Court in *Govind Prakash Varma case (1 supra*) is not applicable to the facts of the present case; that the respondent was aged more than thirty years; all the family members of the deceased employee have reached the ages between 26 and 51 years, thus they are well settled in life and as such they are not entitled for any compassionate appointment.

6. We see no merits in the contention of the learned senior counsel. The case of the respondent stands on better footing than the case of *Govind Prakash Varma (1 supra*), as in that case one of the brothers of the person that was to be appointed was gainfully employed, which is not the case here. Further more, undisputedly, the persons similarly placed to the respondent are given compassionate appointments.

7. In the above circumstances, we see no ground to interfere with the order of the learned single judge and the appeal is liable to be

dismissed.

8. In the result, the writ appeal is dismissed. No costs.

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J. CHELAMESWAR,J

March 6, 2007.

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P. SWAROOP REDDY,J

PNB/BVS

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[1] 2005 SCC (L&S) 590